



March 30, 2007

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## ENGROSSED SENATE BILL No. 330

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DIGEST OF SB 330 (Updated March 21, 2007 12:06 pm - DI 107)

**Citations Affected:** IC 20-26; IC 20-27; IC 20-43; IC 31-34; IC 31-37.

**Synopsis:** Legal settlement of foster children. Provides that a student who is placed in a foster family home or the home of a relative or other caretaker that is not located in the school corporation in which the student has legal settlement may attend school in either the school corporation in which the home is located or in the school corporation in which the student has legal settlement. Provides for the payment of transfer tuition in certain cases. Defines "homeless student", for purposes of school transportation law, to include a student who is awaiting placement in a foster family home. Allows a juvenile court to determine the legal settlement of a student who is under the jurisdiction of the juvenile court. Makes corresponding changes to related sections. Provides that a school corporation may enter into an agreement with a nonprofit corporation that educates certain children who have been placed by or with the consent of the department of education to provide students with an individualized education program.

**Effective:** July 1, 2007.

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### Lawson C, Lubbers

(HOUSE SPONSORS — SUMMERS, BELL, NOE)

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January 11, 2007, read first time and referred to Committee on Education and Career Development.

January 18, 2007, amended, reported favorably — Do Pass.

January 29, 2007, read second time, amended, ordered engrossed.

January 30, 2007, engrossed.

February 6, 2007, read third time, passed. Yeas 47, nays 0.

#### HOUSE ACTION

February 26, 2007, read first time and referred to Committee on Family, Children and Human Affairs.

March 29, 2007, amended, reported — Do Pass.

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ES 330—LS 6830/DI 71+



March 30, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 330

A BILL FOR AN ACT to amend the Indiana Code concerning education.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 20-26-11-8, AS AMENDED BY P.L.141-2006,  
2 SECTION 94, AND AS AMENDED BY P.L.145-2006, SECTION  
3 148, IS CORRECTED AND AMENDED TO READ AS FOLLOWS  
4 [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) A student who is placed in a  
5 state licensed private or public health care facility **or** child care facility:  
6 **or foster family home:**  
7 (1) by or with the consent of the *division of family and children;*  
8 *department of child services;*  
9 (2) by a court order; or  
10 (3) by a child placing agency licensed by the *division of family*  
11 *and children; department of child services;*  
12 may attend school in the school corporation in which the **home or**  
13 facility is located. If the school corporation in which the **home or**  
14 facility is located is not the school corporation in which the student has  
15 legal settlement, the school corporation in which the student has legal  
16 settlement shall pay the transfer tuition of the student.  
17 (b) A student who is placed in a state licensed private or public

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health care or child care facility by a parent may attend school in the school corporation in which the facility is located if:

- (1) the placement is necessary for the student's physical or emotional health and well-being and, if the placement is in a health care facility, is recommended by a physician; and
- (2) the placement is projected to be for not less than fourteen (14) consecutive calendar days or a total of twenty (20) calendar days.

The school corporation in which the student has legal settlement shall pay the transfer tuition of the student. The parent of the student shall notify the school corporation in which the facility is located and the school corporation of the student's legal settlement, if identifiable, of the placement. Not later than thirty (30) days after this notice, the school corporation of legal settlement shall either pay the transfer tuition of the transferred student or appeal the payment by notice to the department. The acceptance or notice of appeal by the school corporation must be given by certified mail to the parent or guardian of the student and any affected school corporation. In the case of a student who is not identified as disabled under IC 20-35, the state board shall make a determination on transfer tuition according to the procedures in section 15 of this chapter. In the case of a student who has been identified as disabled under IC 20-35, the determination on transfer tuition shall be made under this subsection and the procedures adopted by the state board under IC 20-35-2-1(b)(5).

(c) A student who is placed in:

- (1) an institution operated by the division of disability ~~aging~~, and rehabilitative services or the division of mental health and addiction; or
- (2) an institution, a public or private facility, a home, a group home, or an alternative family setting by the division of disability ~~aging~~, and rehabilitative services or the division of mental health and addiction;

may attend school in the school corporation in which the institution is located. The state shall pay the transfer tuition of the student, unless another entity is required to pay the transfer tuition as a result of a placement described in subsection (a) or (b) or another state is obligated to pay the transfer tuition.

**(d) This subsection applies to a student who is placed:**

- (1) by or with the consent of the department of child services;**
- (2) by a court order; or**
- (3) by a child placing agency licensed by the department of child services;**

**in a foster family home or the home of a relative or other**

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unlicensed caretaker that is not located in the school corporation in which the student has legal settlement. The student may attend school in either the school corporation in which the foster family home or other home is located or the school corporation in which the student has legal settlement. The department of child services and the student's foster parents or caretaker shall make the determination concerning where the student attends school unless that determination is made by a court that has jurisdiction over the student. If a licensed child placing agency is responsible for oversight of the foster family home in which the student is placed or for providing services to the student, the department of child services must consult with the licensed child placing agency concerning the determination of, or the recommendations made to the court concerning, where the student attends school. Except as provided in subsection (e), transfer tuition is not required for the student.

(e) If a student to whom subsection (d) applies is attending school in a school corporation that is not the school corporation in which the student has legal settlement, the school corporation in which the student has legal settlement shall pay transfer tuition to the school corporation in which the student is enrolled in school if all of the following conditions apply:

(1) The student was previously placed in a child caring institution licensed under IC 31-27-3.

(2) While placed in the child caring institution, the student was enrolled in a school that is:

(A) administered by the school corporation in which the child caring institution is located; and

(B) located at the child caring institution.

(3) The student was moved from the child caring institution to a licensed foster family home supervised by the child caring institution either:

(A) with the approval of the department of child services and the court having jurisdiction over the student in a case under IC 31-34; or

(B) by a court order in a case under IC 31-37.

(4) After moving from the child caring institution to the foster family home, the student continues to attend the school located at the child caring institution.

(5) The legal settlement of the student was determined by a juvenile court under IC 31-34-20-5, IC 31-34-21-10, IC 31-37-19-26, or IC 31-37-20-6.

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~~(d)~~ (f) A student:

(1) who is placed in a facility, home, or institution described in subsection (a), (b), or (c); ~~and~~

**(2) to whom neither subsection (d) nor subsection (e) applies; and**

~~(2)~~ (3) for whom there is no other entity or person required to pay transfer tuition;

may attend school in the school corporation in which the facility, home, or institution is located. The department shall conduct an investigation and determine whether any other entity or person is required to pay transfer tuition. If the department determines that no other entity or person is required to pay transfer tuition, the state shall pay the transfer tuition for the student out of the funds appropriated for tuition support.

SECTION 2. IC 20-26-11-11, AS ADDED BY P.L.246-2005, SECTION 131, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) A school corporation may enter into an agreement with:

(1) a nonprofit corporation that operates a federally approved education program; or

(2) a nonprofit corporation that:

(A) is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;

(B) for its classroom instruction, employs teachers who are certified by the department;

(C) employs other professionally and state licensed staff as appropriate; and

(D) educates children who:

(i) have been suspended, expelled, or excluded from a public school in that school corporation and have been found to be emotionally disturbed;

(ii) have been placed with the nonprofit corporation by court order;

(iii) have been referred by a local health department; ~~or~~

(iv) have been placed in a state licensed private or public health care or child care facility as described in section ~~8(b)~~ **8** of this chapter; **or**

**(v) have been placed by or with the consent of the department under IC 20-35-6-2;**

in order to provide a student with an individualized education program that is the most suitable educational program available.

(b) If a school corporation that is a transferee corporation enters into an agreement as described in subsection (a), the school corporation

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shall pay to the nonprofit corporation an amount agreed upon ~~from the transfer tuition of the student. The amount agreed upon that~~ may not exceed the **total of:**

(1) the transfer tuition costs **for the student** that otherwise would be payable to the transferee corporation; **and**

(2) a proportionate amount of any state distributions to the transferee corporation that are computed in any part using ADM or any other student count in which the student is included, if the transferee corporation includes the student in the transferee corporation's ADM for a school year.

(c) If a school corporation that is a transferor corporation enters into an agreement as described in subsection (a), the school corporation shall pay to the nonprofit corporation an amount agreed upon, which may not exceed **the total of:**

(1) the transfer tuition costs that otherwise would be payable to a transferee school corporation; **and**

(2) a proportionate amount of any state distributions to the transferor corporation that are computed in any part using ADM or any other student count in which the student is included, if the transferor corporation includes the student in the transferor corporation's ADM for a school year.

SECTION 3. IC 20-27-12-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 0.5. (a) As used in this chapter, "homeless student" includes a student who is awaiting placement in foster care.**

**(b) The term does not include a student who is in foster care.**

SECTION 4. IC 20-43-4-1, AS ADDED BY P.L.2-2006, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1. (a) An individual is an eligible pupil if the individual is a pupil enrolled in a school corporation and:**

(1) the school corporation has the responsibility to educate the pupil in its public schools without the payment of tuition;

(2) subject to subdivision (5), the school corporation has the responsibility to pay transfer tuition under IC 20-26-11 because the pupil is transferred for education to another school corporation;

(3) the pupil is enrolled in a school corporation as a transfer student under IC 20-26-11-6 or entitled to be counted for ADM purposes as a resident of the school corporation when attending its schools under any other applicable law or regulation;

(4) the state is responsible for the payment of transfer tuition to

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the school corporation for the pupil under IC 20-26-11; or

(5) all of the following apply:

(A) The school corporation is a transferee corporation.

(B) The pupil does not qualify as a qualified pupil in the transferee corporation under subdivision (3) or (4).

(C) The transferee corporation's attendance area includes a state licensed private or public health care facility **or** child care facility ~~or foster family home~~ where the pupil was placed:

(i) by or with the consent of the department of child services;

(ii) by a court order;

(iii) by a child placing agency licensed by the ~~division of family resources~~; **department of child services**; ~~or~~

(iv) by a parent or guardian under IC 20-26-11-8; **or**

**(v) by or with the consent of the department under IC 20-35-6-2.**

(b) For purposes of a vocational education grant, an eligible pupil includes a student enrolled in a charter school.

SECTION 5. IC 31-34-20-5, AS AMENDED BY P.L.13-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) This section applies if a juvenile court:

(1) places a child;

(2) changes the placement of a child; or

(3) reviews the implementation of a decree under IC 31-34-21 of a child placed;

in a state licensed private or public health care facility, child care facility, ~~or foster family home~~, **or the home of a relative or other unlicensed caretaker.**

(b) The juvenile court shall do the following:

(1) Make findings of fact concerning the legal settlement of the child.

(2) Apply IC 20-26-11-2(1) through IC 20-26-11-2(8) to determine where the child has legal settlement.

(3) Include the findings of fact required by this section in:

(A) the dispositional order;

(B) the modification order; or

(C) the other decree;

making or changing the placement of the child.

**(c) The juvenile court may determine that the legal settlement of the child is in the school corporation in which the child will attend school under IC 20-26-11-8(d).**

~~(c)~~ (d) The juvenile court shall comply with the reporting

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requirements under IC 20-26-11-9 concerning the legal settlement of the child.

SECTION 6. IC 31-37-19-26, AS AMENDED BY P.L.13-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 26. (a) This section applies if a juvenile court:

- (1) places a child;
- (2) changes the placement of a child; or
- (3) reviews the implementation of a decree under IC 31-37-20 (or IC 31-6-4-19 before its repeal) of a child placed;

in a state licensed private or public health care facility, child care facility, ~~or~~ foster family home, **or the home of a relative or other unlicensed caretaker.**

(b) The juvenile court shall do the following:

- (1) Make findings of fact concerning the legal settlement of the child.
- (2) Apply IC 20-26-11-2(1) through IC 20-26-11-2(8) to determine where the child has legal settlement.
- (3) Include the findings of fact required by this section in the:
  - (A) dispositional order;
  - (B) modification order; or
  - (C) other decree;

making or changing the placement of the child.

**(c) The juvenile court may determine that the legal settlement of the child is in the school corporation in which the child will attend school under IC 20-26-11-8(d).**

~~(c)~~ (d) The juvenile court shall comply with the reporting requirements under IC 20-26-11-9 concerning the legal settlement of the child.

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## COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Senate Bill No. 330, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 9, before "Transfer" insert **"If a licensed child placing agency is responsible for oversight of the foster family home in which the student is placed or for providing services to the student, the department of child services must consult with the licensed child placing agency concerning the determination of, or the recommendations made to the court concerning, where the student attends school."**

Page 3, line 12, strike "and".

Page 3, between lines 12 and 13, begin a new line block indented and insert:

**"(2) to whom subsection (d) does not apply; and"**.

Page 3, line 13, strike "(2)" and insert **"(3)"**.

and when so amended that said bill do pass.

(Reference is to SB 330 as introduced.)

LUBBERS, Chairperson

Committee Vote: Yeas 9, Nays 0.

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 SENATE MOTION

Madam President: I move that Senator Lubbers be added as second author of Senate Bill 330.

LAWSON C

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 SENATE MOTION

Madam President: I move that Senate Bill 330 be amended to read as follows:

Page 3, line 14, delete "Transfer" and insert **"Except as provided in subsection (e), transfer"**.

Page 3, between lines 15 and 16, begin a new paragraph and insert:

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"(e) If a student to whom subsection (d) applies is attending school in a school corporation that is not the school corporation in which the student has legal settlement, the school corporation in which the student has legal settlement shall pay transfer tuition to the school corporation in which the student is enrolled in school if all of the following conditions apply:

(1) The student was previously placed in a child caring institution licensed under IC 31-27-3.

(2) While placed in the child caring institution, the student was enrolled in a school that is:

(A) administered by the school corporation in which the child caring institution is located; and

(B) located at the child caring institution.

(3) The student was moved from the child caring institution to a licensed foster family home supervised by the child caring institution either:

(A) with the approval of the department of child services and the court having jurisdiction over the student in a case under IC 31-34; or

(B) by a court order in a case under IC 31-37.

(4) After moving from the child caring institution to the foster family home, the student continues to attend the school located at the child caring institution.

(5) The legal settlement of the student was determined by a juvenile court under IC 31-34-20-5, IC 31-34-21-10, IC 31-37-19-26, or IC 31-37-20-6."

Page 3, line 16, delete "(e)" and insert "(f)".

Page 3, line 19, after "whom" insert "**neither**".

Page 3, line 19, delete "does not apply;" and insert "**nor subsection (e) applies;**".

(Reference is to SB 330 as printed January 19, 2007.)

LAWSON C

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#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred Senate Bill 330, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, between lines 13 and 14, begin a new paragraph and insert:

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"SECTION 2. IC 20-26-11-11, AS ADDED BY P.L.246-2005, SECTION 131, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) A school corporation may enter into an agreement with:

- (1) a nonprofit corporation that operates a federally approved education program; or
- (2) a nonprofit corporation that:
  - (A) is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;
  - (B) for its classroom instruction, employs teachers who are certified by the department;
  - (C) employs other professionally and state licensed staff as appropriate; and
  - (D) educates children who:
    - (i) have been suspended, expelled, or excluded from a public school in that school corporation and have been found to be emotionally disturbed;
    - (ii) have been placed with the nonprofit corporation by court order;
    - (iii) have been referred by a local health department; ~~or~~
    - (iv) have been placed in a state licensed private or public health care or child care facility as described in section ~~8(b)~~ **8** of this chapter; ~~or~~
    - (v) have been placed by or with the consent of the department under IC 20-35-6-2;**

in order to provide a student with an individualized education program that is the most suitable educational program available.

(b) If a school corporation that is a transferee corporation enters into an agreement as described in subsection (a), the school corporation shall pay to the nonprofit corporation an amount agreed upon ~~from the transfer tuition of the student. The amount agreed upon that~~ may not exceed the **total of:**

- (1) the transfer tuition costs for the student** that otherwise would be payable to the transferee corporation; **and**
- (2) a proportionate amount of any state distributions to the transferee corporation that are computed in any part using ADM or any other student count in which the student is included, if the transferee corporation includes the student in the transferee corporation's ADM for a school year.**

(c) If a school corporation that is a transferor corporation enters into an agreement as described in subsection (a), the school corporation shall pay to the nonprofit corporation an amount agreed upon, which

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may not exceed **the total of:**

- (1) the transfer tuition costs that otherwise would be payable to a transferee school corporation; **and**
- (2) **a proportionate amount of any state distributions to the transferor corporation that are computed in any part using ADM or any other student count in which the student is included, if the transferor corporation includes the student in the transferor corporation's ADM for a school year."**

Page 5, line 5, strike "or".

Page 5, line 6, delete "." and insert "; or

**(v) by or with the consent of the department under IC 20-35-6-2."**

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 330 as reprinted January 30, 2007.)

SUMMERS, Chair

Committee Vote: yeas 9, nays 0.

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**Y**

